REMARKS

The Official Action rejects Claims 1-18 and 26-39 under 35 U.S.C. § 112 for failing to particularly point out and distinctly claim the subject matter regarded as the invention. In response Claims 1, 6, 7, 10, 17, 25, 26 and 30 have been amended to more definitively claim the subject matter regarded as the invention. In this regard, independent Claims 1, 17 and 26 have been amended to further define the corrective action to be designed "to at least partially remedy the facility incident". Moreover, independent Claims 1, 17 and 26 have been amended to recite that the corrective action is defined by the supervisory authority. Additionally, independent Claims 1, 17 and 26 have been amended to provide antecedent basis for an incident, namely, a facility incident. Additionally, Claim 6, 25 and 30 have been amended to provide antecedent basis for "a group", while Claim 7 has been amended to provide antecedent basis for "the classification of the incident". As to dependent Claim 10, it is submitted that this step of automatically providing a completed action notification of the incident report to the supervisory authority after the step of receiving the confirmation of completion is clear as originally worded. However, dependent Claim 10 has been amended to recite that the confirmation of completion is received from the designated personnel. Based upon this confirmation of completion, the notification signifying the completion is then provided to the supervisory authority as set forth by Claim 10. Independent Claim 17, as well as dependent Claims 19, 24 and 25, have been amended to consistently reference "facilities incident reports" in order to provide proper antecedent basis. Additionally, Claim 17 has been amended to provide proper antecedent basis for "an assignment".

As a result of the foregoing amendments, it is therefore submitted that the amended set of claims particularly point out and distinctly claim the subject matter of the claimed invention in compliance with 35 U.S.C. § 112, second paragraph. As such, the rejection of Claims 1-18 and 26-39 under 35 U.S.C. § 112, second paragraph, is therefore overcome.

The Official Action also rejects Claims 17-25 under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent Application Publication No. 2001/0056435 to David F. Quick. The Official Action rejects the remainder of the claims, that is Claims 1-16 and 26-39, under

35 U.S.C. § 103(a) as being unpatenable over the Quick '435 publication in view of U.S. Patent No. 5,414,408 to John Berra. In light of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration of the present application and allowance of the amended set of claims.

Independent Claim 1 is directed to a method for reporting, assigning and tracking facility incident reports and begins by receiving an incident report identifying a facility incident, such as exposure to a particular chemical, the spill of a particular chemical or the like. The method of independent Claim 1 automatically provides an electronic report notification of the incident report to a supervisory authority. The supervisory authority then defines the corrective action that is to be taken to remedy the facility incident and the personnel designated to carry out the corrective action. As such, the corrective action can then be assigned to the designated personnel. Additionally, the method of independent Claim 1 receives a classification of the incident according to an incident classification standard. As now set forth by amended independent Claim 1, the incident classification standard defines the reporting requirements relating to the incident which differ based upon the classification. In one embodiment, for example, "these classifications are governmentally directed standards required for use when reporting certain environmental incidents to the government." *See* page 11, lines 25-27 of the present application. An electronic assignment notification of the incident report is then automatically provided to each of the designated personnel which advises the designated personnel of the corrective action that has been assigned to them. Finally, confirmation of completion of the corrective action is received from the designated personnel.

The Quick '435 publication describes a data access system and method that provides information to, for example, emergency response personnel via a communication device, such as a wireless communication device, so that the emergency response personnel can act in accordance with the information that is provided in order to minimize injury, save lives and protect property. For example, the information that is provided to the emergency response personnel may dictate their selection of protective clothing and equipment and may provide information on dangers associated with hazardous materials that are stored at the site of the

incident. The data access system and method also permits the emergency response personnel to access a number of secure databases in order to obtain detailed information, such as information regarding hazardous materials. Once the emergency has been alleviated, the emergency response personnel can utilize the data access system and method in order to generate a post-incident report.

Relative to amended independent Claim 1, the Quick '435 publication does not provide notification of the incident report to a supervisory authority who then defines: (i) the corrective action to at least partially remedy the facility incident and (ii) the designated personnel to carry out the corrective action. In this regard, the Official Action notes that "Quick fails to explicitly state a supervisory authority that is handling the dissemination of the report once it has been received", but cites the Berra '408 patent (discussed below) for its disclosure as to this feature. The Quick '435 publication also fails to teach or suggest the receipt of a classification of the incident according to an incident classification standard with the classification defining the reporting requirements relating to the incident, which differ depending upon the classification, as now set forth by amended independent Claim 1. Indeed, the Quick '435 publication does not teach or suggest receiving any sort of classification of the incident that would in any way affect the reporting requirements relating to the incident. Since the Quick '435 publication admittedly does not teach or suggest providing notification of the incident report to a supervisory authority, the Quick '435 publication does not teach or suggest assigning corrective action to designated personnel where the corrective action and the designated personnel are defined by the supervisory authority, as also now set forth by amended independent Claim 1. As such, the Quick '435 publication fails to teach or suggest several elements of amended independent Claim 1.

As noted above, the Berra '408 patent was combined with the Quick '435 publication in conjunction with the rejection of Claims 1-16 and 26-39. In order to properly combine a pair of references, however, a teaching or motivation for the combination is essential. *In re Fine,* 337 F.2d 1071, 1075 (Fed.Cir. 1988). In fact, the Court of Appeals for the Federal Circuit has stated that "[c]ombining prior art references without evidence of such a suggestion, teaching, or

motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability – the essence of hindsight." *In re Dembiczak*, 175 F.3d 994 (Fed.Cir. 1999). Although the evidence of a such a suggestion, teaching, or motivation to combine the references typically comes from the prior references themselves, the suggestion, teaching, or motivation can come from the knowledge of one of ordinary skill in the art or the nature of the problem to be solved. *Id.* In any event, the showing must be clear and particular and "[b]road conclusory statements regarding the teaching effect of multiple references, standing alone, are not "evidence." *Id.*

The Official Action states that it would be obvious to one of ordinary skill in the art to include an emergency action plan as disclosed by the Berra '408 patent in the system of the Quick '435 publication so that proper procedure would always be followed when an incident is reported. However, it is reasonably challenged that this assertion is a broad conclusory statement which, standing alone, is not "evidence" as required under the patent laws of motivation to combine the cited references. Indeed, the Quick '435 publication is directed to a data access system and method that does not even suggest any revision to the overall process of responding to an emergency, but instead merely attempts to provide additional information to the emergency response personnel so that they can perform most efficiently and safely. Since the Quick '435 publication is not directed to any type of deviation or variability in the overall emergency response process, there would be no motivation for one skilled in the art to combine the emergency action plan display which, in effect, is a color coded flow chart that is provided in hard copy form in accordance with the Berra '408 patent, with the data access technique of the Quick '435 publication. In particular, the emergency action plan display of the Berra '408 patent provides a flow chart that identifies individuals or roles that perform different functions in a defined order in response to an emergency. Since the Quick '435 patent is in no way directed to the process of which individuals or roles perform which functions and in which order but is, instead, directed to providing additional information to emergency response personnel in the course of their otherwise normal process for responding to an emergency, it is submitted that the

requisite motivation or suggestion for combining the Berra '408 patent with the Quick '435 application is lacking.

Even if the cited references were to be combined, the Berra '408 patent also fails to teach or suggest the receipt of a classification of an incident according to an incident classification standard that defines the reporting requirements relating to the incident which differ based upon the classification as now set forth by amended independent Claim 1. Moreover, while the Berra '408 patent does describe an action plan in which corrective action is assigned to designated personnel, the corrective action and the designated personnel are not defined by the supervisory authority as now set forth by amended independent Claim 1. Instead, by the very nature of the action plan set forth by the Berra '408 patent, the corrective action and the designated personnel are defined in advance of an emergency and not by the supervisory authority. Since both the Quick '435 publication and the Berra '408 patent fail to teach or suggest the receipt of a classification of the incident that defines the reporting requirements relating to the incident and the assignment of corrective action to designated personnel with the corrective action and the designated personnel being defined by the supervisory authority as set forth by amended independent Claim 1, any combination of the references also fails to teach or suggest these elements. Accordingly, the method of amended independent Claim 1, as well as the claims which depend therefrom, is not taught or suggested by the cited references, taken either individually or in combination, for each of the foregoing reasons. Accordingly, the rejection of independent Claim 1, as well as the claims which depend therefrom, is therefore overcome.

Independent Claims 17 and 26 are directed to a system and a method, respectively, for reporting, citing and tracking facility incident reports and include comparable recitations to those described above in conjunction with independent Claim 1 with respect to the receipt of a classification of the incident that defines reporting requirements relating to the incident and the assignment of a corrective action and the designation of personnel to complete the corrective action by a supervisor. As such, it is submitted that independent Claims 17 and 26 are also not taught or suggested by the cited references, taken either individually or in combination, for at least the same reasons as described above in conjunction with independent Claim 1. As such, the

rejections of independent Claims 17 and 26, as well as the claims which depend therefrom, are overcome.

CONCLUSIONS

In view of the amendments to the claims and the foregoing remarks, it is respectfully submitted that all of the claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

Guy R. Gosnell
Registration No. 34,610

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

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